IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

LA.App..No. 577 of 2006(D)

LAR.136/2002 OF THE SUBORDINATE JUDGE'S COURT, CHERTHALA

APPELLANT: RESPONDENT NO.2:

THE PROJECT MANAGER,
JBIC (FORMER OECF) ASSISTED KWS PROJECT,
CHERTHALA.

BY ADV. SRI. BABU VARGHESE, SC, KWA

RESPONDENTS: CLAIMANT AND RESPONDENT NO.2:
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1. REMESAN, NALUTHAIKKAL,
THEVARVOTTOM, THYKKATTUSSERY,
ALAPPUZHA DISTRICT.

2. KERALA STATE,
REP. BY THE SPL. TAHSILDAR (L.A) GENERAL,
ALAPPUZHA.

R1 BY ADV. SRI.V.GIRI
SRIR.AZAD BABU
R2 BY GOVERNMENT PLEADER SMT.K.R.DEEPA
ADDL.ADVOCATE GENERAL

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

I.A.NO.3545/2006 IN L.A.A.NO.577/2006

DISMISSED

SD/- KURIAN JOSEPH, JUDGE

13/3/2007 SD/- K.T.SANKARAN, JUDGE

//TRUE COPY//

AHZ/

KURIAN JOSEPH & K.T. SANKARAN, JJ.

L.A.A. NO. 577 OF 2006 D

Dated this the 13th day of March, 2007

JUDGMENT

Kurian Joseph, J.

This appeal is against the judgment and decree in L.A.R.No.136 of 2002, on the file of the Subordinate Judge's Court, Cherthala. The acquisition is for the purpose of JBIC Aided Water Supply Scheme. It is seen that in the case of acquisitions in the neighbourhood, the appeals have been dismissed by common judgment in L.A.A.Nos.392 of 2004 and 579 of 2006. That apart, it is seen that there is no evidence adduced by the appellant herein before the Reference Court, whereas on the part of the claimant, Exts.A1, A2 and X1 commission report were marked. AWs.1 and 2 were also examined on the part of the claimant. On the basis of the evidence thus adduced by the claimant, particularly taking note of the fact that the acquired property is situated at a distance of 300 metres west of the Cherthala-Arookutty road and that the property is lying in two levels, it

was rightly found by the Reference Court that the acquired property is having only a lesser value than the property covered by Ext.A1. However, it was noted that the Land Acquisition Officer, on the basis of the basic document, had fixed only Rs.10,733/- per Are, whereas the value shown in Ext.A1 document for 13 cents was Rs.2,63,000/-, ie. Rs.49,970/- per Are. To the extent of dissimilarity and taking note of the importance of the locality, the land value was proportionately reduced by the Reference Court by reducing 40% from the value of Ext.A1 property. In the absence of any contra evidence, we are afraid, the contention taken by the learned Standing Counsel for the Water Authority that reliance ought not have been placed by the Reference Court on Ext.A1 cannot be appreciated. Taking note of the extent of dissimilarity only the value was proportionately reduced. Learned counsel for the claimant also submits that the appellant had deposited the amount and the claimant had withdrawn the same.

For all the above reasons, we do not find any merit in the appeal. It is accordingly dismissed.

(KURIAN JOSEPH)
Judge

(K.T.SANKARAN)
Judge

ahz/